

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

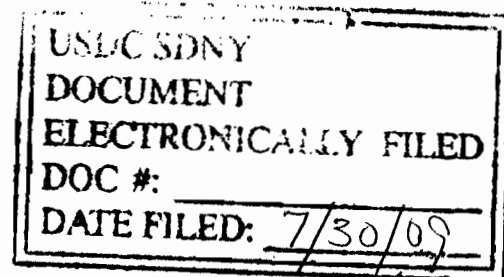
----- X
SMITH PERCINTHE,

Plaintiff,

- against -

**PAUL E. JULIEN, HEATHER
ALMODOVAL, ANDREW W. RHEOME, S.
GRANT,**

Defendants.
----- X



ORDER

08 Civ. 893 (SAS)

SHIRA A. SCHEINDLIN, U.S.D.J.:

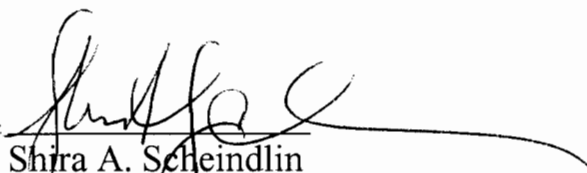
In an Order dated September 18, 2008, I gave Smith Percinthe leave to amend his Complaint to correctly identify defendant James Almodoval, who was previously misidentified. Because Almodoval was served later than his co-defendants due to the error, I set a separate briefing schedule for his motion for summary judgment. However, Almodoval filed his motion in a timely manner, and both his motion and his co-defendants' motion were before the Court at the same time. Because the arguments presented by Almodoval and his co-defendants were identical, and hence there was no prejudice to Percinthe, I addressed both

motions for summary judgment together in an opinion dated July 24, 2009, before Percinthe's reply to Almovodal's motion was due.

Percinthe's response to Almodoval's motion, which arrived after the motion was decided in Almodoval's favor and which I have now carefully reviewed, is indeed identical, in all relevant respects, to Percinthe's response to the motion made by defendants Julien, Rheome, and Grant. Because Percinthe was not prejudiced when I decided both motions before receiving his response to Almodoval's motion, it is hereby

ORDERED that the Clerk of the Court close this case.

SO ORDERED:



Shira A. Scheindlin
U.S.D.J.

Dated: New York, New York
July 30, 2009

-Appearances-

Plaintiff (Pro se):

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